

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

IN RE:

TAMARA LEE MCGREEVY

IN PROCEEDINGS UNDER CHAPTER 13

CASE NO: 09-16588

JUDGE: MORGENSTERN-CLARREN

Debtors

MOTION OF FIFTH THIRD MORTGAGE COMPANY FOR RELIEF FROM STAY

(22440 Hawley Road, Wellington, OH 44090)

FIFTH THIRD MORTGAGE COMPANY (the “Movant”) moves this Court, under §§361, 362, 363 and other sections of the Bankruptcy Reform Act of 1978, as amended (the “Bankruptcy Code”) and under Rules 4001, 6007, and other rules of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) for an Order conditioning, modifying or dissolving the automatic stay imposed by §362 of the Bankruptcy Code. In support of this Motion, the Movant states:

MEMORANDUM IN SUPPORT

1. The Court has jurisdiction over this matter under 28 U.S.C. §§ 157 and 1334. This is a core proceeding under 28 U.S.C. § 157 (b)(2). The venue of this case and this Motion is proper under 28 U.S.C. §§ 1408 and 1409.

2. On October 2, 1998, the Debtor listed above (collectively, the “Debtor”) obtained a loan from The Strongsville Savings Bank in the amount of \$167,000.00. Such loan was evidenced by a Promissory Note dated October 2, 1998 (the “Note”), a copy of which is attached as Exhibit A.

3. To secure payment of the Note and performance of the other terms contained in it, the Debtor executed a Mortgage/Security Agreement dated October 2, 1998 (the "Security Agreement"). The Security Agreement granted a lien on the real property (the "Collateral") owned by the Debtor, located at 22440 Hawley Road, Wellington, OH 44090 and more fully described in the Security Agreement.

4. The lien created by the Security Agreement was duly perfected by the filing of the Security Agreement in the office of the Lorain County Recorder on October 2, 1998. A copy of the Security Agreement is attached to this Motion as Exhibit B. The lien is the first lien on the collateral.

5. The Note and Security Agreement were transferred as follows: Fifth Third Bank, Northwestern Ohio, N.A. was the successor in interest to the Strongsville Savings bank, as evidenced by Exhibit D. Fifth Third Bank, Northwestern Ohio, N.A. assigned the mortgage to Movant on October 20, 2004. The Note is endorsed in blank, is bearer paper and is in the possession of the Movant.

6. The value of the Collateral is \$208,200.00. This valuation is based on the fair market value as determined by the Lorain County Auditor.

7. As of the date of this Motion, there is currently due and owing on the Note the outstanding balance of \$127,305.57, plus interest accruing at a rate of 6% per annum [\$20.93 per day] from October 1, 2009.

8. Other parties know to have an interest in the Collateral are The Farmers Savings Bank nka The Huntington National Bank, K&L Excavation, Ltd., Providian National Bank nka JP Morgan Chase Bank, N.A., People's Bank aka People's United Bank, Household Financial Services, Inc. nka HSBC Mortgage Services, Inc., Exterior System, Inc.. Colonial

Credit Corp., NCO Portfolio Management, Inc., Banner Supply Company, United States of America and Lorain County Treasurer.

9. Movant is entitled to relief from the automatic stay under §§ 362(d)(1) and/or 362(d)(2) for these reasons:

Debtors have failed to provide adequate protection for the lien held by the Movant for the reason set forth below.

Debtors have failed to make periodic payments to Movant since the commencement of this Bankruptcy case, which unpaid payments from October 1, 2009 are in the aggregate amount of \$4,958.82 through December 4, 2009.

10. Movant has completed the worksheet attached as Exhibit C.

11. This Motion conforms to the standard form adopted in this District except as follows: N/A

WHEREFORE, Movant prays for an Order from the Court granting Movant relief from the automatic stay of § 362 of the Bankruptcy Code to permit Movant to proceed under law and for such other and further relief to which the Movant may be entitled.

Respectfully Submitted,

/s/ Mark R. Lembright
FELTY & LEMBRIGHT CO., L.P.A.
Mark R. Lembright (0041545)
Attorney for Movant
1500 West Third Street, Suite 400
Cleveland, OH 44113
(216) 588-1500 ext 128
(216) 771-4334-fax
mlembright@feltyandlembright.com

DATE: December 4, 2009

PROOF OF SERVICE

I certify that on the 4th day of December, 2009, copies of the foregoing were served by mailing the same by ordinary U.S. Mail, postage prepaid, and/or electronically as permitted by local rule, to the persons listed below.

Served by Regular U.S Mail

Tamara Lee McGreevy
22440 Hawley Road
Wellington, OH 44090
Debtor

The Farmers Savings Bank nka
The Huntington National Bank
Attn: Kevin Bryant
2361 Morse Road (NC2W42)
Columbus, OH 43229
Party of Interest

K & L Excavation, Ltd.
44847 State Route 18
Wellington, OH 44090
Party of Interest

Providian National Bank nka
JPMorgan Chase Bank, N.A.
Attn: Foreclosure dept.
3415 Vision Drive
Columbus, OH 43219
Party of Interest

People's Bank nka
People's United Bank
Attn: Foreclosure Department
850 Main Street, 11th Floor
Bridgeport, CT 06604
Party of Interest

Household Financial Services, Inc. nka
HSBC Mortgage Services, Inc.
1300 East 9th Street
Cleveland, OH 44114
Party of Interest

Exterior System, Inc.
Attn: Mike Lether, Owner
8633 Memorial Drive
Plain City, OH 43064
Party of Interest

Colonial Credit Corp.
700 King Farm Boulevard, Suite 504
Rockville, MD 20850
Party of Interest

NCO Portfolio Management, Inc.
c/o CT Corporation System
1300 East 9th Street, Suite 1010
Cleveland, OH 44114
Party of Interest

Fredric A. Kannensohn, Esq.
15 Central Square, Suite 500
Youngstown, OH 44503
Attorney for Banner Supply Company
Party of Interest

Steven J. Paffilas, Esq.
801 West Superior Avenue, Suite 400
Cleveland, OH 44113
Attorney for United States of America
Party of Interest

J.G. Morrisson, Esq.
225 Court Street, 3rd Floor
Elyria, OH 44035
Attorney for Treasurer of Lorain County
Party of Interest

Electronic Mail Notice List

The following is a list of parties who are currently on the list to receive e-mail notice/service for this case:

William J. Balena, Esq.
Debtor's Attorney
bbalena@me.com

Craig H. Shopneck, Trustee
ch13shopneck@ch13cleve.com

Office of the U.S. Trustee
Howard M. Metzenbaum U.S. Courthouse
201 Superior Ave. East Ste. 441
Cleveland, OH 44114

Respectfully Submitted,

/s/ Mark R. Lembright
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